

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

KEVIN CLARKE, TREVOR BOECKMANN,
HARRY CRANE, CORWIN SMIDT,
PREDICT IT, INC., ARISTOTLE
INTERNATIONAL, INC., MICHAEL
BEELER, MARK BORGHI, RICHARD
HANANIA, JAMES D. MILLER, JOSIAH
NEELEY, GRANT SCHNEIDER, and WES
SHEPHERD,

Plaintiffs,

v.

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

Case No. 1:22-cv-00909

The Honorable Lee Yeakel
The Honorable Mark Lane

**PLAINTIFFS' MOTION TO MAGISTRATE JUDGE MARK LANE FOR LEAVE TO
FILE A SUPPLEMENTAL MEMORANUM IN OPPOSITION TO DEFENDANT'S
MOTIONS TO TRANSFER AND DISMISS REFERRED TO JUDGE LANE FOR
REPORT AND RECOMMENDATION**

Plaintiffs Kevin Clarke, Michael Beeler, Trevor Boeckmann, Mark Borghi, Harry Crane, Richard Hanania, James D. Miller, Josiah Neeley, Grant Schneider, Wes Shepherd, Corwin Smidt, Predict It, Inc. ("PredictIt"), and Aristotle International, Inc. ("Aristotle") respectfully move this Court for leave to file a Supplemental Memorandum in Opposition to Defendant's Motions to Transfer and Dismiss ("Supplemental Memorandum"), a copy of which is attached hereto.

At oral argument, the Court raised several concerns, including concerns not addressed in prior briefing or to which intervening precedent is relevant. Plaintiffs seek leave to file the attached seven-page memorandum to provide detail from key witnesses and otherwise more fully address those concerns and to bring recent authority to the Court's attention. Plaintiffs respectfully request

that the Court grant this Motion and consider the attached Supplemental Memorandum before ruling on the CFTC's pending motions to transfer and to dismiss.

Consistent with Local Rule CV-7(G), counsel for Plaintiffs has conferred with counsel for Defendant, who represents that Defendant opposes the motion.

Dated: December 8, 2022

Respectfully submitted,

/s/ Michael J. Edney

Michael J. Edney
HUNTON ANDREWS KURTH LLP
2200 Pennsylvania Avenue,
NW Washington, DC 20037
T: (202) 778-2204
medney@huntonak.com

John J. Byron
STEPTOE & JOHNSON LLP
227 West Monroe Street
Suite 4700
Chicago, Illinois 60606
T: (312) 577-1300 / F: (312) 577-1370
jbyron@steptoe.com

*Attorneys for Plaintiffs Kevin Clarke,
Trevor Boeckmann, Harry Crane,
Corwin Smidt, Predict It, Inc. Aristotle
International, Inc., Michael Beeler,
Mark Borghi, Richard Hanania, James
D. Miller, Josiah Neeley, Grant
Schneider, and Wes Shepherd*

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to counsel of record for all Parties.

/s/ Michael J. Edney

Michael J. Edney